

USDC SDNY DOCUMENT ELECTRONICALLY FILED DOC #: DATE FILED: 4/28/2015
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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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EDWIN RUIZ, JUAN CHACON and MARCELO	:
CHACON, on behalf of themselves and FLSA	:
collective plaintiffs,	:
	:
Plaintiff(s),	:
	:
-against-	:
	:
MAG BUILDERS, INC. and TOMFAZ	:
SKROVZKI,	:
	:
Defendants.	:
-----X	

14-CV-7865 (VEC)

ORDER

VALERIE CAPRONI, United States District Judge:

WHEREAS Plaintiffs brought this action pursuant to the Fair Labor Standards Act, 29 U.S.C. § 201 *et seq.* (“FLSA”), and the New York Labor Law § 196 *et seq.* (“NYLL”);

WHEREAS Magistrate Judge Mass has informed the Court that on April 28, 2015, during a settlement conference where the *pro se* defendant Tomafz Skrovzki appeared telephonically, Plaintiffs reached a settlement agreement with Defendant Skrovski;

WHEREAS Defendant Skrovzki agreed to pay Plaintiffs \$60,000 in \$10,000 monthly installments over six months, to be secured by a \$120,000 confession of judgment, to settle this action, and Plaintiff agreed to allow a short grace period for delayed payments; and

WHEREAS dismissal of Plaintiffs’ claims under the FLSA without either Department of Labor or court approval of the settlement risks “a subsequent suit by the same employee, even if the employer receives a release as part of the settlement agreement.” *Picerni v. Bilingual Seit & Preschool Inc.*, 925 F. Supp. 2d 368, 371 (E.D.N.Y. 2013) (citing *Brooklyn Savings Bank v. O’Neil*, 324 U.S. 697 (1945));

It is hereby ORDERED that this action is dismissed as against Defendant Skrovzki without costs (including attorney's fees) to either party and without prejudice to restoration of the action to the calendar of the undersigned within 30 days of the date of this Order if in fact there has not been a settlement of this matter.

It is FURTHER ORDERED that the parties may seek judicial approval of their settlement to mitigate the risk of a subsequent suit by the same employees. If the parties seek court approval, they must submit to the Court a joint letter explaining why the settlement should be approved and, if the parties' document the settlement beyond what was placed on the record during the settlement conference, should attach a copy of the settlement agreement as an exhibit. The joint letter must address the considerations detailed in *Wolinsky v. Scholastic Inc.*, 900 F. Supp. 2d 332, 335–37 (S.D.N.Y. 2012), so that the Court may ensure that the settlement is fair. The parties are further advised that the Court will not approve a settlement agreement that contains a confidentiality provision. Any materials in support of a judicially-approved settlement shall be filed within 30 days of the date of this order.


The parties are advised that if they wish the Court to retain jurisdiction of this matter for purposes of enforcing the settlement agreement, they must submit a letter to the Court within 30 days requesting the Court to do so or, if the settlement agreement is documented beyond what was placed on the record during the settlement conference, provide a copy of the written settlement agreement to the Court, in accordance with Rule 5.A of the Court's Individual Practices, within the next 30 days with a request that the agreement be "so ordered" by the Court.

Plaintiffs are directed to inform the Court within 30 days whether they intend to dismiss the Complaint against the corporate defendant or seek a default judgment.

All pending motions are dismissed as moot. The Clerk of Court is requested to dismiss the Complaint against Defendant Skrovzki and mail a copy of this Order to the *pro se* defendant.

SO ORDERED.

**Date: April 28, 2015
New York, NY**



VALERIE CAPRONI
United States District Judge